

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

PHILLIP OWENS,

Plaintiff, 21-CV-6445 (FPG)(MWP)

v.

COUNTY OF MONROE,

Defendants.

Defendant's Responding Declaration:

1. The Plaintiff did not submit an affidavit with his motion of a sincere attempt to resolve the dispute, pursuant to WDNY Local Rule 7(d)(3), about unsealing of these records prior to filing this motion.
2. Plaintiff cannot show a good faith effort to resolve this dispute before bringing the instant motion because Plaintiff has not exhausted other available avenues of discovery prior to seeking to unseal the records in question, and because Plaintiff has not sufficiently shown the relevance of the information sought.
3. I have repeatedly told Plaintiff's Attorney over the course of more than a year that I do not believe there is likely to be much relevant information in the sealed files, because of District Attorney's Office record keeping practices, and that other discovery should be completed before seeking unsealing of these files.
4. In spite of this Plaintiff's Attorney insisted on bringing this motion rather than making a sincere attempt to resolve the dispute.
5. There are 29 cases named in Plaintiff's complaint that allegedly support Plaintiff's claims of deliberate indifference regarding alleged failure to supervise or discipline Assistant District Attorneys, and as Plaintiff states in his supporting memorandum, Defendants

have agreed to allow access to all of the files other than the eight (8) files in this motion which are sealed pursuant to New York Criminal Procedure Law § 160.50 and/or confidential pursuant to New York Civil Rights Law § 50-b.

6. Plaintiff's Attorneys have not reviewed all of the unsealed files before bringing this motion to unseal, and in fact they have so far reviewed only two of those files.
7. One of the files Plaintiff's attorneys reviewed, at least in part, is *People v. Santiago*, 101 A.D.3d 1715 (4th Dept. 2012), a case mentioned in Plaintiff's motion, because it was prosecuted by Kristina Karle.
8. Plaintiff has not submitted any documents found in reviewing the unsealed files to support his contention that these old files contain anything relevant to Plaintiff's case.
9. Plaintiff's Attorneys also have not yet deposed any witnesses in the case, including the sole Assistant District Attorney who allegedly violated Plaintiff's rights, William Gargan, whose testimony could be meaningful regarding issues of ADA discipline and supervision.
10. Depositions and review of the unsealed files could show that the sealed files sought in the instant motion are not in fact necessary to the Plaintiff's case.
11. Therefore Plaintiff's motion should be dismissed because Plaintiff has not shown a good faith effort to resolve this dispute or avail himself of other available discovery materials.
12. Sandra Doorley was elected as District Attorney of Monroe County in November of 2011, and was sworn in in January of 2012.
13. Kristina Karle's last day of employment in the Monroe County District Attorney's Office was December 24, 2011.

14. Matthew Rich's last day of employment in the Monroe County District Attorney's Office was December 24, 2011.
15. Daniel Majchrzak's last day of employment in the Monroe County District Attorney's Office was December 9, 2002, eleven years before Sandra Doorley became the DA.
16. Melissa Meetze's last day of employment in the Monroe County District Attorney's Office was September 4, 2010.
17. The decision in question in question in *People v. Fields*, Indictment No. 2009-0864 (Feb. 17, 2010) was rendered before Sandra Doorley was DA.

WHEREFORE Defendant respectfully requests that Plaintiff's motion be denied and that such other and further relief as the Court finds good and proper should be granted.

Dated: December 23, 2024

JOHN P. BRINGEWATT,
MONROE COUNTY ATTORNEY
Attorney for Defendant Monroe County



Adam M. Clark, Esq. of Counsel
Deputy County Attorney
307 County Office Building
39 West Main Street
Rochester, New York 14614
Tel: 585-753-1374
adamclark@monroecounty.gov